



SSI Advocacy Project

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January 17, 2002

JoAnn Barnhart
Commissioner of Social Security

Dear Commissioner,

With this letter we are commenting on the Social Security Administration's final rules, effective February 19, 2002, regarding the Musculoskeletal System and Related Criteria (Revision of Listings 1.00 and 101.00). Social Security very clearly articulates that the musculoskeletal listings revisions are to increase the emphasis on functional abilities, particularly the ability or inability to ambulate effectively.

The specific discussion of loss of function, in the final rules, is well stated and expands the number and nature of impairments that result in loss of function. The changes in listing 1.05, however, are antithetical to identifying disability based on loss of function. Pursuant to the final rules, wherein 1.05 now incorporates former listings 1.09 and 1.10 and reflects rescission of 97-2(9), claimants lose two critical means of establishing disability. First, the rules remove the presumption that an individual is disabled if s/he has had an amputation of one lower extremity (at or above the tarsal region) and second, claimants will no longer be able to establish an inability to use a prosthetic device effectively by showing that despite their medical need they are unable to obtain a prosthesis. Removal of these two means for establishing disability not only places undue burdens on profoundly disabled individuals but promotes a policy that is not consistent with the Secretary's stated focus on loss of function. We strongly recommend that the particular changes discussed in this letter not be incorporated with the other listing changes.

Respectfully,

Martha Tonn
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Supervisory Paralegal